

NOTICE OF PROPOSED RULEMAKING
TITLE 12. NATURAL RESOURCES
CHAPTER 4. GAME AND FISH COMMISSION

PREAMBLE

1.

| <u>Sections Affected</u> | <u>Rulemaking Action</u> |
|---------------------------------|---------------------------------|
| R12-4-601 | Amend |
| R12-4-610 | Amend |
| R12-4-611 | Amend |
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

| | |
|------------------------|---|
| Authorizing statute: | A.R.S. § 17-231(A)(1) |
| Implementing statutes: | A.R.S. §§ 17-304(B), 17-452, 41-1033, and Title 41, Chapter 6, Article 10 |
3. **A list of all previous notices appearing in the Register addressing the proposed rule:**

| | |
|--------------------------------------|---|
| Notice of Rulemaking Docket Opening: | 16 A.A.R. <i>to be filled in by the Register Editor</i> , March 5, 2010 |
| Notice of Proposed Rulemaking: | 16 A.A.R. <i>to be filled in by the Register Editor</i> , March 5, 2010 |
4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

| | |
|------------|---|
| Name: | Marty Fabritz |
| Address: | Arizona Game and Fish Department 5000 W. Carefree Hwy Phoenix, AZ 85086 |
| Telephone: | (623) 236-7281 |
| Fax: | (623) 236-7299 |
| E-mail: | mfabritz@azgfd.gov |
5. **An explanation of the rules, including the agency's reasons for initiating the rulemaking:**

Laws 2009, Third Special Session, Chapter 7, Section 28 (B)(7) allows an agency to pursue rulemaking that eliminates or replace archaic rules. On November 30, the Governor's office approved the Department's request to pursue rulemaking for R12-4-601, R12-4-610, and R12-4-611.

Individual's submitting a petition, as well as the Department, are held to strict time constraints in regards to required statutory and regulatory actions. To ensure that actions requiring the submission of documents to the Department occur in a timely manner, the Commission proposes to amend R12-4-601, R12-4-610, and R12-4-611 to provide the Department's current mailing address.

The Commission proposes additional amendments to R12-4-601, R12-4-610, and R12-4-611 to ensure conformity with the Arizona Administrative Procedures Act, Secretary of State, and Governor's Regulatory

Review Council rulemaking format and style requirements.

6. **A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rules or proposes not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The Department did not rely on any study in its evaluation of or justification for the proposed rules.

7. **A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

8. **The preliminary summary of the economic, small business, and consumer impact:**

The Department anticipates that the rulemaking will not impact state revenues, political subdivisions, private industry, or the public.

The only costs the Department will incur are those costs associated with the rulemaking process. The Commission has determined that the benefits of the rulemaking outweigh any costs.

Individuals who petition the Arizona Game and Fish Commission for adoption, amendment, or repeal of a rule; individuals seeking review of an existing agency practice or policy that they allege to constitute a rule; political subdivisions of this state that submit petitions; and the Department will benefit from a rule that is clear, concise, and understandable.

9. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

See item #4.

10. **The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:**

Written comments will be accepted at the above address for 30 days following publication of this Notice in the *Arizona Administrative Register*. An oral proceeding regarding the proposed rules will be held as follows:

Date: May 14, 2010

Time: 8 a.m. to 5 p.m.

Location: Arizona Game and Fish Department
5000 W. Carefree Hwy
Phoenix, AZ 85086

The rulemaking record will close at 5 p.m. on May 14, 2010.

11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

12. **Any material incorporated by reference and its location in the rules:**

None

13. **The full text of the rules follows:**

TITLE 12. NATURAL RESOURCES
CHAPTER 4. GAME AND FISH COMMISSION
ARTICLE 6. RULES OF PRACTICE BEFORE THE COMMISSION

Section

- R12-4-601. Petition for Rule or Review of Practice or Policy
- R12-4-610. Petitions for the Closure of State or Federal Lands to Hunting, Fishing, Trapping, or Operation of Motor Vehicles
- R12-4-611. Petition for a Hearing Before the Commission When No Remedy is Provided in Statute, Rule, or Policy

ARTICLE 6. RULES OF PRACTICE BEFORE THE COMMISSION

R12-4-601. Petition for Rule or Review of Practice or Policy

- A.** Any individual, including any organization or agency, requesting that the Commission make, amend, or repeal a rule, shall submit a petition as prescribed ~~in~~ under this Section.
- B.** Any individual, including any organization or agency, requesting that the Commission review an existing Department practice or substantive policy that the petitioner alleges to constitute a rule under A.R.S. § 41-1033, ~~(as defined in under A.R.S. § 41-1001) under A.R.S. § 41-1033~~, shall submit a petition as prescribed ~~in~~ under this Section.
- C.** No change
- D.** No change
- E.** A petitioner shall submit an original and one copy of a petition to the Arizona Game and Fish Department, Director's Office, ~~2221 West Greenway Rd., Phoenix, Arizona 85023~~ 5000 W. Carefree Highway, Phoenix, AZ 85086. The Commission shall render a decision on the petition as required ~~by~~ under A.R.S. § 41-1033.
- F.** Within five working days after a petition is submitted, the Director shall determine whether the petition complies with this Section.
 - 1. If the petition complies with this Section, the Director shall place the petition on a Commission open meeting agenda. The petitioner may present oral testimony at that meeting, ~~by complying with as~~ established under R12-4-603.
 - 2. No change
- G.** No change
- H.** No change
 - 1. No change
 - 2. No change
 - 3. No change
- I.** The title of Part 2 shall be "Request for Rule" or "Request for Review," as applicable. The title shall be centered at the top of the first page of this part. Part 2 shall contain:
 - 1. No change
 - 2. If the request is for amendment of a current rule, a statement to this effect, followed by the Arizona Administrative Code ~~(A.A.C.)~~ number of the current rule proposed for amendment, the heading of the rule, the specific, clearly readable language of the rule, indicating language to be deleted with strikeouts, and language to be added with underlining;
 - 3. If the request is for repeal of a current rule, a statement to this effect, followed by the Arizona Administrative Code ~~(A.A.C.)~~ number of the rule proposed for repeal and the heading of the rule or;
 - 4. If the request is for review of an existing agency practice or substantive policy statement that the petitioner alleges qualifies as a rule, ~~(as defined in under A.R.S. § 41-1001)~~, a statement to this effect, followed by the practice or policy number, if any, the practice or policy heading, if any, or a brief description of the practice

or policy subject matter.

- J. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
- K. The title of Part 4 shall be “Statutory Authority.” The title shall be centered at the top of the first page of this part. In Part 4, the petitioner shall identify any statute that authorizes the Commission to make the rule, if known, or cite to A.R.S. § 41-1033 if the petition relates to review of an existing practice or substantive policy statement.
- L. No change
 - 1. No change
 - 2. No change
 - 3. No change

R12-4-610. Petitions for the Closure of State or Federal Lands to Hunting, Fishing, Trapping, or Operation of Motor Vehicles

- A. ~~Any~~ An individual or agency requesting that the Commission consider closing state or federal land to hunting, fishing, or trapping as provided under ~~R12-4-110 or~~ A.R.S. § 17-304(B) or R12-4-110; or closing roads or trails on state lands as provided under R12-4-110, shall submit a petition as prescribed in this Section before the Commission will consider the request.
- B. No change
- C. No change
- D. ~~The~~ A petitioner shall ~~file~~ submit an original and one copy of the petition ~~shall be filed with~~ to the Director of the Arizona Game and Fish Department, ~~2221 West Greenway, Phoenix, Arizona 85023~~ Director’s Office, 5000 W. Carefree Highway, Phoenix, AZ 85086, not less than 60 calendar days before a scheduled Commission meeting to be placed on the agenda for that meeting. If the Commission receives a petition after that time it will be considered at the next regularly-scheduled open meeting. At any time, the petitioner may withdraw the petition or request delay to a later regularly-scheduled open meeting.
- E. Within 15 business days after the petition is filed, the Department shall determine whether the petition complies with the requirements established under A.R.S. § 17-452, R12-4-110, and this Section, ~~R12-4-110, and A.R.S. § 17-452~~. Once the Department determines that the petition meets these requirements, and if the petitioner has not agreed to an alternative solution or withdrawn the petition, the Department, in accordance with the schedule in subsection (D), shall place the petition on the agenda for the Commission’s next open meeting and provide written notice to the petitioner of the date that the Commission will consider the petition.
 - 1. The petitioner may present oral testimony in support of the petition at the Commission meeting, in accordance with the provisions ~~of~~ established under R12-4-603.

2. If a petition does not meet the requirements prescribed ~~in~~ under A.R.S. § 17-452, R12-4-110, and this Section, R12-4-110, and A.R.S. § 17-452, the Department shall return one copy of the petition as filed to the petitioner with the reasons why the petition does not meet the requirements, and not place the petition on a Commission agenda.

3. No change

F. No change

1. No change
2. No change
3. No change
4. No change
5. No change
 - a. No change
 - b. No change
 - c. No change
6. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - i. No change
 - ii. No change
7. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
8. No change
 - a. No change
 - b. No change

R12-4-611. Petition for a Hearing Before the Commission When No Remedy is Provided in Statute, Rule, or Policy

- A.** No change

- B.** No change

- C.** A petitioner shall ~~file the~~ submit an original and one copy of ~~the~~ a petition ~~with~~ to the Arizona Game and Fish Department, Director's Office, ~~2221 W. Greenway Rd., Phoenix, Arizona 85023~~ 5000 W. Carefree Highway,

Phoenix, AZ 85086.

- D.** No change
- E.** No change
 - 1. No change
 - 2. No change
 - 3. No change
- F.** No change
- G.** No change
- H.** No change
 - 1. No change
 - 2. No change
- I.** No change
- J.** No change
- K.** No change
- L.** No change
 - 1. No change
 - 2. No change